



Agenda Date: 2/20/02
Agenda Item IIIC

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

IN THE MATTER OF THE PETITION OF)
COMCAST CABLEVISION OF GLOUCESTER)
COUNTY, INC., FOR A RENEWAL)
CERTIFICATE OF APPROVAL TO CONTINUE)
TO CONSTRUCT, OPERATE AND MAINTAIN)
A CABLE TELEVISION SYSTEM IN AND FOR)
THE BOROUGH OF GLASSBORO, COUNTY)
OF GLOUCESTER, STATE OF NEW JERSEY)

CABLE TELEVISION

RENEWAL
CERTIFICATE OF APPROVAL

BPU DOCKET NO. CE99100786
OAL DOCKET NO. CTV 6241-00S

Stryker, Tams and Dill, Newark, New Jersey, by Dennis C. Linken, Esq., for the Petitioner.

Scaffidi and Scaffidi, Woodbury, New Jersey, by Timothy D. Scaffidi, Esq., for the Borough.

Borough Clerk, Borough of Glassboro, New Jersey, by Mary Ann Ashenfelter, for the Borough.

BY THE BOARD:

On August 24, 1979, the Board granted Gloucester County CATV Associates ("Gloucester") a Certificate of Approval in Docket No. 796C-6483, for the construction, operation and maintenance of a cable television system in the Borough of Glassboro ("Borough"). On May 29, 1980, in Docket No. 805C-6680, the Board approved the transfer of the Certificate from Gloucester to Storer Communications of Gloucester County, Inc. ("Storer Gloucester"). On July 1, 1988, in Docket No. CM8605542, the Board approved an internal corporate reorganization authorizing Storer Gloucester to transfer its assets and Certificates of Approval to Storer Cable Communications of Gloucester County, Inc. d/b/a Storer Cable Communications ("Storer"). On July 27, 1990, the Board granted Storer a Renewal Certificate of Approval for the Borough, in Docket No. CE89060553. On June 27, 1994, Storer notified the Board's Office of Cable Television that it would now be known as Comcast Cablevision of Gloucester County, Inc. d/b/a Storer Cable Communications ("Comcast"). This transaction was an internal reorganization not requiring Board approval. Subsequently, Comcast dropped the name Storer and is now known as Comcast Cablevision of Gloucester County, Inc. ("Petitioner"). Although the Petitioner's Certificate expired on August 24, 1999, it is authorized to continue to provide cable television service to the Borough pursuant to N.J.S.A. 48:5A-25.

The Petitioner filed an application for the renewal of its municipal consent with the Borough on or about November 24, 1998, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. The Borough, after public hearing, adopted a municipal ordinance granting renewal consent to the Petitioner on August 24, 1999, for a term of seven years.

On October 1, 1999, pursuant to N.J.S.A. 48:5A-17(d), the Petitioner filed with the Board for a renewal of its Certificate of Approval for the Borough. The Petitioner alleged that the Borough's actions in granting a seven year renewal term were arbitrary and capricious. The Borough filed an answer to the petition on November 12, 2000.

On July 24, 2000, the Board transmitted the case to the Office of Administrative Law ("OAL") for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. Administrative Law Judge ("ALJ") Louis McAfoos, T/A, was assigned to the case. The case was assigned OAL Docket No. CTV 6241-00S. Subsequently, the Borough and the Petitioner concluded negotiations culminating in the adoption of a municipal ordinance granting renewal consent to the Petitioner on February 27, 2001. The ordinance was granted for a term of 15 years with a provision for an automatic renewal of five years. The Petitioner indicated its acceptance of the ordinance by letter dated April 18, 2001. On May 11, 2001, the Petitioner filed an amended petition for the Borough. The settlement, consisting of the ordinance granting municipal consent, the Petitioner's acceptance and the amended petition, was forwarded to ALJ McAfoos. At the request of the Board, pursuant to N.J.A.C. 1:1-3.3(a), the Office of Administrative Law returned the file to the Board on December 19, 2001 for action on the settlement.

The Board has reviewed the application for municipal consent, the petition and amended petition for a Renewal Certificate of Approval and the municipal consent ordinance and amended municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board HEREBY FINDS the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Renewal Certificate of Approval. Further, the Borough reviewed these qualifications in conjunction with the municipal consent process. See N.J.S.A. 48:5A-22 to 29 and N.J.A.C. 14:18-13.
2. The design and technical specifications of the system will ensure that the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period as stated in the ordinance is fifteen years with an automatic renewal provision for a term of five years thereafter pursuant to N.J.S.A. 48:5A-19 and -25. The Board finds these periods to be of reasonable duration.
5. The Borough may review the performance of the Petitioner with regard to the ordinance. Said review shall commence on the fourth anniversary of the date of issuance of this Certificate and shall be completed within six months from that

date. If the Borough determines that the Petitioner has failed to substantially comply with the material terms and conditions of the ordinance, the Borough shall provide written notice to the Petitioner of such alleged instances of non-compliance and shall grant the Petitioner 90 days to cure such deficiency. The Borough may petition the Board for appropriate administrative action, including revocation of the franchise or reduction of the franchise term, only after the 90 day opportunity to cure has passed and the deficiency has not been cured.

6. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates and promptly file any revisions thereto.
7. Pursuant to N.J.S.A. 48:5A-26(b), the ordinance specifies a complaint officer. In this case it is the Office of Cable Television. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.
8. The Petitioner will maintain a local business office or agent for the purpose of receiving, investigating and resolving complaints. Currently, the local office serving this provision is located at 304 South Broad Street in Woodbury City.
9. The franchise fee to be paid to the Borough is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the Borough. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.
10. The Petitioner shall provide service along any public right-of-way to any person's residence or business located in all areas of the franchise territory at tariffed rates for standard and non-standard installation. In all other circumstances, the Petitioner shall utilize the line extension policy ("LEP") attached to the Certificate. The minimum homes per mile figure is 35.
11. The Petitioner has agreed to provide public, educational and governmental ("PEG") access channels and facilities in accordance with its renewal application and the ordinance. The Petitioner shall continue to provide residents with public access opportunities on a system wide community access channel maintained by the Petitioner. The channel shall be available for use by qualified individuals and organizations for cablecasting non-commercial access programming. The Petitioner provides the use of some production equipment and assistance in producing PEG access programs.
12. Within six months of the date of receipt by the Petitioner of this Certificate, the Petitioner shall provide the Borough with a capital contribution in the amount of \$35,000.00 to be used for the purchase of video production equipment or to be otherwise used in support of access programming as the Borough deems appropriate.

13. The Petitioner shall continue to provide total preferred cable service of one outlet, free of charge, to each: a) police facility; b) fire department; c) first aid building; d) public library; e) community center; f) emergency management facility; and g) each public and private school in the Borough, provided that the facility is within 200 feet of active cable distribution plant. The Petitioner shall also continue to provide total preferred cable service of one outlet, free of charge, to each public and private school in the Borough, provided that the school is within 200 feet of active cable distribution plant. Each additional outlet installed above shall be paid for by the Borough or the school, however, the Petitioner shall waive monthly service charges for additional outlets.
14. The Petitioner shall provide one free basic Internet access service, via high-speed modem, to one non-networked personal computer to each public and private school and library in the Borough.
15. Upon reasonable written request of the Borough, representatives of the Petitioner shall appear at least once annually, at a public hearing of the governing body or before the Borough's Cable Television Advisory Committee, to discuss matters pertaining to the provision of cable service to the residents of the Borough and other related issues as the Borough and the Petitioner may see fit.

Based upon these findings, the Board HEREBY CONCLUDES that pursuant to N.J.S.A. 48:5A-17(a) and 28(c), the Petitioner has sufficient financial and technical capacity and meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is HEREBY ISSUED this Renewal Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system within the entirety of the Borough.

This Renewal Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein.

The Petitioner shall adhere to the operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. Section 76.1 et seq. Any modifications to the provisions thereof, shall be incorporated into this Certificate. Additionally and more specifically, the Petitioner shall adhere to the technical standards of 47 C.F.R. Part 76, Subpart K.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to

and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire on August 24, 2014.

DATED: February 20, 2002

BOARD OF PUBLIC UTILITIES
BY:

(signed)

JEANNE M. FOX
ACTING PRESIDENT

(signed)

FREDERICK F. BUTLER
COMMISSIONER

(signed)

CAROL J. MURPHY
COMMISSIONER

(signed)

CONNIE O. HUGHES
COMMISSIONER

ATTEST:

(signed)

HENRY M. OGDEN
ACTING BOARD SECRETARY